AMENDED IN SENATE APRIL 5, 2006

AMENDED IN SENATE MARCH 16, 2006

# SENATE BILL No. 1277

**Introduced by Senator Alquist**

February 10, 2006

An act to amend Section ~~1371.4 of the Health and Safety~~ *16953.3 of the Welfare and Institutions* Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as amended, Alquist. Emergency services and care: reimbursement.

*Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act (EMS Act), establishes the Emergency Medical Services Authority within the California Health and Human Services Agency to provide statewide coordination of local county EMS programs.*

*Existing law authorizes a county to establish an emergency medical services fund for reimbursement of EMS related costs, and requires each county to establish within its emergency medical services fund various accounts into which each county is required to deposit funds appropriated by the Legislature for purposes of these accounts, including a Physician Services Account. Existing law authorizes a county to allow the State Department of Health Services to administer the county's emergency medical services fund if the county also elects to have the department administer its medically indigent services program.*

*Existing law requires a county to adopt a fee schedule to establish a uniform, reasonable, level of reimbursement from the physician*

*services account for reimbursable services provided pursuant to the medically indigent services program.*

*This bill would require the State Department of Health Services to adopt a fee schedule to establish a uniform, reasonable, level of reimbursement for use when a county contracts with the state for the administration of the Physician Services Account.*

~~Existing law, the Knox-Keene Health Care Service Plan act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Under the act, a health care service plan is required to comply with specified procedures regarding authorization requests made by providers and is required to reimburse providers for emergency services and care provided to its enrollees, as specified.~~

~~This bill would provide that a request for authorization for emergency services and care, poststabilization care, as defined, or transfer of the enrollee is deemed approved by the health care service plan if it fails to authorize those services within 30 minutes of the provider's initial contact to request authorization. The bill would require the plan to reimburse the provider for the services within a specified time frame.~~

~~Because the bill would specify additional requirements for the operation of a health care service plan the willful violation of which would be a crime, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

*SECTION 1. Section 16953.3 of the Welfare and Institutions Code is amended to read:*

16953.3. *(a)* Notwithstanding any other restrictions on reimbursement, a county shall adopt a fee schedule to establish a uniform, reasonable level of reimbursement from the physician services account for reimbursable services.

*(b) Notwithstanding any other restrictions on reimbursement, the State Department of Health Services shall adopt a fee schedule to establish a uniform, reasonable level of reimbursement for use in the physician services reimbursement programs operated by the department pursuant to contract, as provided for in subdivision (c) of Section 16952.*

~~SECTION 1. Section 1371.4 of the Health and Safety Code is amended to read:~~

~~1371.4. (a) A health care service plan, or its contracting medical providers, shall provide 24-hour access for enrollees and providers to obtain timely authorization for medically necessary care for circumstances where the enrollee has received emergency services and care and is stabilized, but the treating provider believes that the enrollee may not be discharged safely. A physician and surgeon shall be available for consultation and for resolving disputed requests for authorizations. A health care service plan that does not require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition or active labor need not satisfy the requirements of this subdivision.~~

~~(b) A health care service plan shall reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee, except as provided in subdivision (c). As long as federal or state law requires that emergency services and care be provided without first questioning the patient's ability to pay, a health care service plan shall not require a provider to obtain authorization prior to the provision of emergency services and care necessary to stabilize the enrollee's emergency medical condition.~~

~~(c) Payment for emergency services and care may be denied only if the health care service plan reasonably determines that the emergency services and care were never performed; provided that a health care service plan may deny reimbursement to a provider for a medical screening examination in cases when the plan enrollee did not require emergency services and care and the enrollee reasonably should have known that an emergency did not exist. A health care service plan may require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition.~~

~~(d) If there is a disagreement between the health care service plan and the provider regarding the need for necessary medical care, following stabilization of the enrollee, the plan shall assume responsibility for the care of the patient either by having medical personnel contracting with the plan personally take over the care of the patient within a reasonable amount of time after the disagreement, or by having another general acute care hospital under contract with the plan agree to accept the transfer of the patient as provided in Section 1317.2, Section 1317.2a, or other pertinent statute. However, this requirement shall not apply to necessary medical care provided in hospitals outside the service area of the health care service plan. If the health care service plan fails to satisfy the requirements of this subdivision, further necessary care shall be deemed to have been authorized by the plan. Payment for this care may not be denied.~~

~~(e) A health care service plan may delegate the responsibilities enumerated in this section to the plan's contracting medical providers.~~

~~(f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with respect to a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency department physician.~~

~~(g) The Department of Managed Health Care shall adopt by July 1, 1995, on an emergency basis, regulations governing instances when an enrollee requires medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to requests for treatment authorization.~~

~~(h) The Department of Managed Health Care shall adopt, by July 1, 1999, on an emergency basis, regulations governing instances when an enrollee in the opinion of the treating provider requires necessary medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to a request for treatment authorization from a treating provider who has a contract with a plan.~~

~~(i) The definitions set forth in Section 1317.1 shall control the construction of this section.~~

~~(j) (1) A health care service plan that meets the criteria set forth in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and that is contacted by a hospital pursuant to Section 1262.8 shall, within 30 minutes of the time the hospital makes the initial telephone call requesting information, do all of the following:~~

~~(A) Discuss the enrollee's medical record with the noncontracting physician and surgeon or an appropriate representative of the hospital.~~

~~(B) Transmit any appropriate portion of the enrollee's medical record requested by the appropriate hospital representative or the noncontracting physician and surgeon to the hospital by facsimile transmission or electronic mail, whichever method is requested by the appropriate hospital representative or the noncontracting physician and surgeon. The health care service plan shall transmit the record in a manner that complies with all legal requirements to protect the enrollee's privacy.~~

~~(C) Either authorize poststabilization care or inform the hospital that it will arrange for the prompt transfer of the enrollee to another hospital.~~

~~(2) A health care service plan that meets the criteria set forth in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 and that is contacted by a hospital pursuant to Section 1262.8 shall reimburse the hospital for poststabilization care rendered to the enrollee if any of the following occur:~~

~~(A) The health care service plan authorizes the hospital to provide poststabilization care.~~

~~(B) The health care service plan does not respond to the hospital's initial contact or does not make a decision regarding whether to authorize poststabilization care or to promptly transfer the enrollee within the timeframe set forth in paragraph (1).~~

~~(C) There is an unreasonable delay in the transfer of the enrollee, and the noncontracting physician and surgeon determines that the enrollee requires poststabilization care.~~

~~(3) Paragraphs (1) and (2) do not apply to a physician and surgeon who provides medical services at the hospital.~~

~~(4) A health care service plan that meets the criteria set forth in paragraphs (3) and (4) of subdivision (a) of Section 1262.8 shall not require a hospital representative or a noncontracting physician and surgeon to make more than one telephone call~~

~~pursuant to Section 1262.8 to the number provided in advance by the health care service plan. The representative of the hospital that makes the telephone call may be, but is not required to be, a physician and surgeon.~~

~~(5) An enrollee who is billed by a hospital in violation of Section 1262.8 may report receipt of the bill to the health care service plan and the department. The department shall forward that report to the State Department of Health Services.~~

~~(6) For purposes of this section, "poststabilization care" means medically necessary care following stabilization of an emergency medical condition.~~

~~(k) Notwithstanding any other provision of law, if a health care service plan does not authorize emergency services and care, poststabilization care, or transfer of the enrollee within 30 minutes from the time the provider first contacted the plan to request authorization for any of those services, the request for authorization to provide that service shall be deemed approved. The plan shall reimburse the provider within the timeframe specified in Section 1371.35 for the services provided to the enrollee.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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